

SENATE BILL No. 180

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-17-14; IC 27-1-43; IC 34-13-3-2.

Synopsis: Indiana veteran recovery program and fund. Establishes, for five years, the Indiana veteran recovery program and fund to provide treatment and funding for veterans with traumatic brain injury or posttraumatic stress disorder and to obtain reimbursement from third parties. Provides that program guidelines may include a pilot subprogram for first responders. Requires coordination with various state agencies. Establishes Indiana University as the oversight entity for the program. Requires annual reporting. Makes an appropriation.

Effective: July 1, 2014.

Banks, Hershman

January 8, 2014, read first time and referred to Committee on Health and Provider Services.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 180

A BILL FOR AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-17-14 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2014]:
- 4 **Chapter 14. Indiana Veteran Recovery Program**
- 5 **Sec. 1. As used in this chapter, "program" refers to the Indiana**
- 6 **veteran recovery program established by IC 27-1-43-5.**
- 7 **Sec. 2. The director of veterans' affairs and the adjutant general**
- 8 **of the Indiana national guard shall enter into a memorandum of**
- 9 **understanding with any institutional review board as necessary to**
- 10 **provide assistance to veterans under the program.**
- 11 **Sec. 3. The director of veterans' affairs shall notify each**
- 12 **individual in Indiana who has a United States military service**
- 13 **related injury or disability of the existence of the program.**
- 14 **Sec. 4. This chapter expires July 1, 2019.**
- 15 SECTION 2. IC 27-1-43 IS ADDED TO THE INDIANA CODE AS
- 16 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2014]:

Chapter 43. Indiana Veteran Recovery Program and Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana veteran recovery fund established by section 6 of this chapter.

Sec. 2. As used in this chapter, "hyperbaric oxygen treatment" means treatment in:

(1) a hyperbaric chamber approved by the federal Food and Drug Administration, as prescribed by a physician; or

(2) a hyperbaric oxygen device that is approved by the federal Food and Drug Administration for investigational use under direction of an institutional review board with a national clinical trial number;

at a state fire code compliant location and delivered by a licensed or nationally certified health care provider.

Sec. 3. As used in this chapter, "program" refers to the Indiana veteran recovery program established by section 5 of this chapter.

Sec. 4. As used in this chapter, "veteran" refers to any individual in Indiana who has a United States military service related injury or disability, regardless of active, reserve, or retired status.

Sec. 5. (a) The Indiana veteran recovery program is established to provide diagnostic testing, hyperbaric oxygen treatment, counseling, and rehabilitative treatment of veterans who have traumatic brain injury or posttraumatic stress disorder.

(b) The commissioner shall administer the program.

(c) The commissioner shall do the following:

(1) Be responsible for the management of all aspects of the program.

(2) Hire any necessary staff and enter into any necessary agreements with third parties to implement and evaluate the program.

(3) Prepare and provide program information.

(4) Use money in the fund to pay for diagnostic testing, counseling, and rehabilitative treatment (and travel and housing expenses when necessary) of veterans with traumatic brain injury or posttraumatic stress disorder when other funding is unavailable, according to the program guidelines.

(5) With the assistance of the attorney general, pursue reimbursement from:

(A) the federal government; and

(B) any other responsible third party payer;

for payments made under subdivision (4), for deposit in the



fund.

(6) Act as a liaison to the federal government and other parties regarding the program.

(7) Enter into memoranda of understanding, as necessary, with other state agencies concerning the administration and management of the fund and the program.

(8) Adopt rules under IC 4-22-2 to implement this chapter.

Sec. 6. (a) The Indiana veteran recovery fund is established.

(b) The purpose of the fund is to:

(1) be used as a revolving fund to provide payments under the program for diagnostic testing and treatment of veterans with posttraumatic stress disorder or traumatic brain injury; and

(2) fund the administrative expenses of the program.

(c) The commissioner shall administer the fund.

(d) Expenses of administering the fund shall be paid from money in the fund.

(e) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Interest, premiums, gains, or other earnings on the fund.

(4) Any reimbursement received from the federal government or third parties.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the fund is continuously appropriated for the purposes of the fund.

(i) All expenditures from the fund must be made by the treasurer of state following approval by the budget agency.

Sec. 7. There is appropriated to the fund five million dollars (\$5,000,000) from the state general fund for the commissioner's use in carrying out the purposes of the fund.

Sec. 8. (a) The commissioner shall enter into an agreement with Indiana University to provide exclusive oversight of the program in Indiana.

(b) The oversight includes all of the following:

(1) Adoption by Indiana University of program guidelines.

(2) Evaluation and approval of:

(A) all hyperbaric oxygen treatment sites participating in



the program; and

(B) diagnostic testing, counseling, and rehabilitative treatment provided under the program.

(3) Inspection of treatment sites, in coordination with the International Hyperbaric Medical Foundation.

(4) Validation of treatment results according to the program guidelines, including the following:

(A) Biostatistical analysis and verification of treatment effectiveness.

(B) Reporting of analyses to the International Hyperbaric Medical Foundation for use in national studies.

(5) Long term follow-up evaluation of program results in connection with otherwise anticipated and actual state budget expenditures in education, labor, substance abuse, homelessness, incarceration, health care treatment, and use of state programs.

(c) Indiana University shall receive an established fee from the program at the time payment is made under this chapter to a health care provider for providing hyperbaric oxygen treatment to persons under this chapter.

Sec. 9. (a) A health care provider providing treatment under the program shall bill the program and be paid at the:

(1) Medicare rate for the treatment; or

(2) if a Medicare rate does not apply, the fair market rate for the treatment, as approved by the commissioner.

(b) Payment shall be made for treatment under the program only after verification under section 8 of this chapter that the treatment improves clinical outcomes.

(c) Physicians that supervise treatment under the program must be paid at the Medicare Part B facility rate.

(d) The commissioner, through the office of Medicaid policy and planning, shall seek any waiver or approval required by the federal Centers for Medicare and Medicaid Services to obtain Medicaid payment for diagnostic testing, hyperbaric oxygen treatment, counseling, and rehabilitative treatment under the program.

Sec. 10. (a) The program guidelines adopted under this chapter must include the following:

(1) Approval of payment for a treatment that requires:

(A) federal Food and Drug Administration approval for any purpose of a drug or device used in the treatment;

(B) institutional review board approval of protocols or treatments in accord with requirements of the United



States Department of Health and Human Services;
 (C) voluntary acceptance of the treatment by the patient;
 and

(D) demonstrated improvement of the patient receiving the
 treatment through:

- (i) standardized, independent pretreatment and
 posttreatment neuropsychological testing;
- (ii) nationally accepted survey instruments;
- (iii) neurological imaging; or
- (iv) clinical examination.

(2) Payment from the fund not more than thirty (30) days
 after the patient, or health care provider on behalf of the
 patient, submits documentation required by the program.

(3) Confidentiality of all individually identifiable patient
 information. However, all data and information from which
 the identity of an individual patient cannot be reasonably
 ascertained must be available to the general assembly,
 participating third party payers, participating institutional
 review boards, participating health care providers, and other
 governmental agencies.

(4) A treatment for which approval is granted under
 subdivision (1) is considered to have been medically necessary
 for purposes of any third party payment.

(b) The program guidelines adopted under this chapter may
 include a pilot subprogram through which first responders,
 including police officers, firefighters, and other high risk
 government employees, may receive treatment under the program
 according to the same requirements that apply for veterans
 receiving treatment under the program.

Sec. 11. (a) An individual who receives treatment under the
 program may not be subject to retaliation of any kind.

(b) An institutional review board that approves treatment
 provided under the program must be treated as if the institutional
 review board were a government institutional review board.

(c) Except as provided in this chapter, the program and the fund
 are not subject to any budget review or approval process otherwise
 required under state law. However, the commissioner shall file an
 annual audited financial statement in an electronic format under
 IC 5-14-6 with the legislative council and the budget agency.

Sec. 12. The commissioner shall, not later than August 1 of each
 year and in coordination with the Indiana director of veterans'
 affairs and Indiana University, file a report concerning the



1 program in an electronic format under IC 5-14-6 with the
 2 legislative council and the governor. The report shall include all of
 3 the following:

4 (1) The number of individuals for whom payments were made
 5 from the fund for treatment under the program.

6 (2) The condition for which each individual counted under
 7 subdivision (1) received treatment and the success rate of each
 8 treatment.

9 (3) Treatment methods for which payment was made under
 10 the program and the success rate of each method.

11 (4) Recommendations concerning integration of the treatment
 12 methods described in subdivision (3) with treatments
 13 provided in facilities of the federal Department of Defense and
 14 Department of Veterans' Affairs.

15 **Sec. 13. This chapter expires July 1, 2019.**

16 SECTION 3. IC 34-13-3-2, AS AMENDED BY P.L.145-2011,
 17 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2014]: Sec. 2. This chapter applies to a claim or suit in tort
 19 against any of the following:

20 (1) A member of the bureau of motor vehicles commission
 21 established under IC 9-15-1-1.

22 (2) An employee of the bureau of motor vehicles commission who
 23 is employed at a license branch under IC 9-16, except for an
 24 employee employed at a license branch operated under a contract
 25 with the commission under IC 9-16.

26 (3) A member of the driver education advisory board established
 27 by IC 9-27-6-5.

28 (4) A health care provider, with respect to any damages
 29 resulting from the health care provider's use of hyperbaric
 30 oxygen treatment to treat a veteran under the Indiana veteran
 31 recovery program under IC 27-1-43. This subdivision expires
 32 July 1, 2019.

